

FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,

Plaintiff,

V.

SALVADOR MARTINEZ-TORRES,

Defendant.

Criminal Action No. 06-31-JJF

JOINT MOTION FOR PSYCHIATRIC HOSPITALIZATION OF DEFENDANT

The United States of America by and through its undersigned attorney, and Salvador Martinez-Torres, by and through his attorney, Edson A. Bostic, Esquire, jointly move this Court, pursuant to 18 U.S.C. § 4241(d) for an Order directing that Salvador Martinez-Torres, the defendant, be committed to the custody of the Attorney General for hospitalization in a federal institution for a reasonable period of time not to exceed four (4) months, as is necessary to determine whether there is a substantial probability that in the foreseeable future the defendant will attain the capacity to permit the proceedings to go forward in this Court. In support of this motion, the parties state the following:

1. On March 28, 2006, the defendant was indicted in the District of Delaware on charges including conspiracy to distribute 5 kilograms of cocaine. The defendant has remained a pre-trial detainee since indictment.
2. On March 13, 2007, on the motion of the United States, the District Court ordered that the defendant be committed to the custody of the Attorney General for placement in a suitable federal facility for the purpose of undergoing a competency examination. (Docket Item 80.)

3. On or about June 13, 2007, the parties received the 16-page report of Elissa R. Miller, Ph.D., Forensic Psychologist with the Federal Bureau of Prisons at the Metropolitan Correctional Center, New York City, New York, reporting Dr. Miller's finding that the defendant currently is not competent to stand trial. Further, Dr. Miller's report recommends that the defendant "be sent away for restoration to competency, pursuant to Title 18, United States Code, Section 4241(d)." That section reads as follows:

(d) Determination and disposition. - If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable facility -

(1) for such a reasonable period of time, not to exceed four months, as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward; and

(2) for an additional reasonable period of time until -

(A) his mental condition is so improved that trial may proceed, if the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the proceedings to go forward; or

(B) the pending charges against him are disposed of according to law;
whichever is earlier.

If, at the end of the time period specified, it is determined that the defendant's mental condition has not so improved as to permit proceedings to go forward, the defendant is subject to the provisions of sections 4246 and 4248.

4. The parties stipulate that by the preponderance of the evidence the defendant presently is suffering from a mental disease or defect rendering him mentally incompetent to the extent that

he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. In this regard, the parties waive a competency hearing and request the hospitalization of the defendant pursuant to § 4241(d).

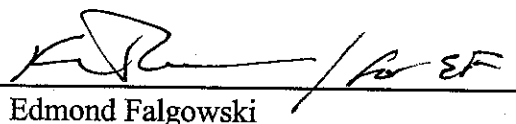
WHEREFORE, the parties respectfully request that the Court find the defendant to be presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense and to order the defendant's commitment to the custody of the Attorney General for hospitalization for treatment in a suitable facility for a reasonable period of time, not to exceed four (4) month, as is necessary to determine whether there is a substantial probability in the foreseeable future that the defendant will attain the capacity to permit the proceedings to go forward.



Edson A. Bostic, Esquire
Counsel for Defendant

COLM F. CONNOLLY
United States Attorney

By:



Edmond Falgowski
Assistant United States Attorney

Dated:

FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,

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SALVADOR MARTINEZ-TORRES,

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ORDER

On this _____ day of _____, 2007, having considered the Joint Motion
for Psychiatric Hospitalization of the defendant filed by the parties, it is hereby

ORDERED that the Court finds the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense; and

IT IS FURTHER ORDERED that the defendant is committed to the custody of the Attorney General for hospitalization for treatment in a suitable facility for a reasonable period of time, not to exceed four (4) months, as is necessary to determine whether there is a substantial probability that in the foreseeable future the defendant will attain the capacity to permit the proceedings to go forward.

Honorable Joseph J. Farnan, Jr.
United States District Court Judge